IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.38825 of 2008
SHYAM NARAYAN RAI
Versus
STATE OF BIHAR
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2 **25.09.2008** Heard learned counsel for the petitioner and the State.

Petitioner is an accused in a case registered for the offences under Sections 419, 420, 467, 468/34 of the Indian Penal Code.

The allegation against the petitioner is to the effect that a tractor loan of rupees two lacs, on mortgaging the land by registered deed in favour of the Bank, was obtained by the petitioner along with his son and co-accused Ram Prassan Rai from the Punjab National Bank, Buxar. It is allegaed that on complaint being made by the son of the petitioner namely, Paras Nath Rai to the Bank that the land which was mortgaged in favour of the Bank was his self acquired property, and as such, he did not sign over the deed of mortgage. The complaint was made on 9th January, 2003 and on such complaint first information report was lodged against the petitioner as well as the co-accused named above.

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It has been submitted on behalf of the petitioner that the land was validly mortgaged and loan obtained, as a matter of fact, the loan was also liquidated

on 16.01.2003, however the present first information report was lodged on 28.04.2004. In this connection, the counsel has also invited the attention of the Court to the letter dated 28.04.2004 written by the Senior Manager of Punjab National Bank, Buxar to the Officer-in-Charge informing that there is no outstanding loan dues against the petitioner and the loan account has been closed. It is further submitted that the first information report was lodged at the instructions of the higher officials. It is further submitted that with regard to the dispute between the father and the son namely, Paras Nath Rai, there is a partition suit pending in the Civil Court, as stated in the supplementary affidavit. It is also submitted that the petitioner now has retired as an Assistant Engineer from the Public Welfare Department.

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Learned Addl. P.P. appearing for the State submits that although the loan has been liquidated and there is no due against the petitioner, however the allegation against the petitioner is that he executed the mortgage deed in favour of the bank with signature of his son Paras Nath Rai, which was said to be not his signature, and as such, the petitioner has committed the offence.

Having considered the submissions, as noticed above, and in the facts and circumstances of the

case, it is directed that in the event of arrest or surrender within a period of four weeks from today, the petitioner, namely, Shyam Narayan Rai be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Buxar, in connection with Buxar (T) P.S.Case 89 of 2004 subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

Manish/- **(Shailesh Kumar Sinha,J.)**

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